IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 319 OF 2005

Sau.Hirabai Ramkesh Aute & Anr... ....Appellants.
V/s
Sayaji Mahadu Aute & Ors... ....Respondents.

Mr.R.S.Apte i/by Mr.N.R.Bubna, Adv. For the appellants.

CORAM: A.P.DESHPANDE, J.
10/7/07

PC:

The present appellant No.2 executed a sale deed in favour of respondent No.1 on 20.9.1981. The suit property came to be sold for consideration of Rs.10,000/-. Respondent No.2 and his wife instituted a suit in the trial Court for cancellation of sale deed on the ground that the sale deed was obtained by misrepresentation and fraud. No particulars of fraud are pleaded. After lapse of about seven years an amendment application was moved and accordingly amendment was carried out and a plea was taken that the respondent No.2 is of unsound mind and not capable of understanding the nature of contract. The trial Court has dismissed the suit and the First Appellate Court concurring with the view taken by the trial Court has dismissed the regular civil appeal. Aggrieved thereby second appeal has been filed. The learned counsel appearing for the

appellant has invited my attention to para 10 of the judgment of the First Appellate Court wherein the evidence of two doctors has been considered. Both the doctors have categorically admitted that they have examined the appellant No.2 in the year 1983 i.e. After filing of the suit. No original medical record was produced. The Courts below have found that the evidence of the doctors examined as witnesses by the plaintiff failed to establish that in the year 1981 when the sale deed was executed appellant No.2 was not in proper state of mind to understand the nature of transaction. Perused the judgment of the First Appellate Court. No interference is called for. No substantial question of law emerges for adjudication. Hence second appeal stands summarily dismissed.

10.7.07